

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

TONY BLAIR,

Petitioner,

v.

**Civil Action No. 3:07 CV 37
(Maxwell)**

WAYNE PHILLIPS,

Respondent.

ORDER

It will be recalled that on March 30, 2007, *pro se* Petitioner Tony Blair, a federal prisoner incarcerated at FCI-Morgantown in Morgantown, West Virginia, instituted the above-styled civil action by filing an Application & Motion For Writ Of Habeas Corpus Pursuant To 28 U.S.C. § 2241. On that same date, March 30, 2007, the Petitioner also filed an Emergency Motion For Habeas Corpus Writ.

It will further be recalled that the case was referred to United States Magistrate Judge James E. Seibert in accordance with Rule 83.09 of the Local Rules of Prisoner Litigation Procedure.

On April 12, 2007, United States Magistrate Judge James E. Seibert issued a Report And Recommendation Upon Preliminary Review Of The Petition wherein he recommended that the Petitioner's Application & Motion For Writ Of Habeas Corpus Pursuant To 28 U.S.C. § 2241 be denied and dismissed with prejudice and that the Petitioner's Emergency Motion For Habeas Corpus Writ also be denied.

In his Report And Recommendation, Magistrate Judge Seibert provided the Petitioner with ten (10) days from the date of said Report And Recommendation in which to file objections thereto and advised the Petitioner that a failure to timely file objections would result in the waiver of his right to appeal from a judgment of this Court based upon said Report And Recommendation.

The Court's review of the docket in the above-styled action has revealed that no objections to Magistrate Judge Seibert's April 12, 2007, Report And Recommendation have been filed by the Petitioner and that this matter is now ripe for review.

Upon consideration of Magistrate Judge Seibert's April 12, 2007, Report

and Recommendation, and having received no written objections thereto¹, it is

ORDERED that the Report And Recommendation entered by United States Magistrate Judge James E. Seibert on April 12, 2007, be, and the same is hereby, **ACCEPTED** in whole. Accordingly, it is

ORDERED that the Petitioner's Application & Motion For Writ Of Habeas Corpus Pursuant To 28 U.S.C. § 2241 (Docket No. 2) be, and the same is hereby, **DENIED** and **DISMISSED** with prejudice. It is further

ORDERED that the Petitioner's Emergency Motion For Habeas Corpus Writ (Docket No. 1) be, and the same is hereby, **DENIED**. It is further

ORDERED that the Clerk of Court shall enter judgment for the Respondent. It is further

ORDERED that, should the Petitioner desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the

¹The failure of a party to objection to a Report And Recommendation waives the party's right to appeal from a judgment of this Court based thereon and, additionally, relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4th Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

alternative, at the time the notice of appeal is submitted, the Petitioner may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed *in forma pauperis* from the United States Court Of Appeals For The Fourth Circuit.

The Clerk of Court is directed to transmit a copy of this Order to the *pro se* Petitioner.

ENTER: May 7, 2007

/S/ Robert E. Maxwell

United States District Judge